

(4) The certificate of competency program;

(5) The subcontracting assistance program;

(6) The 8(a) program, under which agencies contract with the SBA for goods or services to be furnished under a subcontract by a small disadvantaged business concern;

(7) The use of women-owned small business concerns;

(8) The use of a price evaluation adjustment for small disadvantaged business concerns, and the use of a price evaluation preference for HUBZone small business concerns;

(9) The Small Disadvantaged Business Participation Program;

(10) [Reserved]

(11) The use of veteran-owned small business concerns; and

(12) Sole source awards to HUBZone small business and service-disabled veteran-owned small business concerns.

(b) This part, except for subpart 19.6, applies only in the United States or its outlying areas. Subpart 19.6 applies worldwide.

[48 FR 42240, Sept. 19, 1983, as amended at 59 FR 64785, Dec. 15, 1994; 59 FR 67036, Dec. 28, 1994; 63 FR 35721, June 30, 1998; 63 FR 36122, July 1, 1998; 63 FR 70268, Dec. 18, 1998; 64 FR 10536, Mar. 4, 1999; 65 FR 60544, Oct. 11, 2000; 68 FR 28081, May 22, 2003; 69 FR 25276, May 5, 2004; 71 FR 220, Jan. 3, 2006]

19.001 Definitions.

As used in this part—

Concern means any business entity organized for profit (even if its ownership is in the hands of a nonprofit entity) with a place of business located in the United States or its outlying areas and that makes a significant contribution to the U.S. economy through payment of taxes and/or use of American products, material and/or labor, etc. “Concern” includes but is not limited to an individual, partnership, corporation, joint venture, association, or cooperative. For the purpose of making affiliation findings (see 19.101), include any business entity, whether organized for profit or not, and any foreign business entity, *i.e.*, any entity located outside the United States and its outlying areas.

Fair market price means a price based on reasonable costs under normal com-

petitive conditions and not on lowest possible cost (see 19.202–6).

Industry means all concerns primarily engaged in similar lines of activity, as listed and described in the North American Industry Classification system (NAICS) manual (available via the Internet at <http://www.census.gov/epcd/www/naics.html>).

Nonmanufacturer rule means that a contractor under a small business set-aside or 8(a) contract shall be a small business under the applicable size standard and shall provide either its own produce or that of another domestic small business manufacturing or processing concern (see 13 CFR 121.406).

[51 FR 2650, Jan. 17, 1986, as amended at 52 FR 38189, Oct. 14, 1987; 54 FR 25062, June 12, 1989; 55 FR 3881, Feb. 5, 1990; 57 FR 60580, Dec. 21, 1992; 60 FR 48260, Sept. 18, 1995; 61 FR 67410, Dec. 20, 1996; 62 FR 236, Jan. 2, 1997; 62 FR 44820, 44822, Aug. 22, 1997; 63 FR 36122, July 1, 1998; 63 FR 70268, Dec. 18, 1998; 63 FR 71723, Dec. 29, 1998; 64 FR 10536, Mar. 4, 1999; 64 FR 36223, July 2, 1999; 65 FR 46056, July 26, 2000; 65 FR 60544, Oct. 11, 2000; 66 FR 2129, Jan. 10, 2001; 68 FR 28081, May 22, 2003; 71 FR 221, Jan. 3, 2006; 72 FR 63049, Nov. 7, 2007]

Subpart 19.1—Size Standards

19.101 Explanation of terms.

As used in this subpart—

Affiliates. Business concerns are affiliates of each other if, directly or indirectly, either one controls or has the power to control the other, or another concern controls or has the power to control both. In determining whether affiliation exists, consideration is given to all appropriate factors including common ownership, common management, and contractual relationships; *provided*, that restraints imposed by a franchise agreement are not considered in determining whether the franchisor controls or has the power to control the franchisee, if the franchisee has the right to profit from its effort, commensurate with ownership, and bears the risk of loss or failure. Any business entity may be found to be an affiliate, whether or not it is organized for profit or located in the United States or its outlying areas.

(1) *Nature of control.* Every business concern is considered as having one or more parties who directly or indirectly control or have the power to control it.